

REMARKS/ARGUMENTS

Claims 1-5, 7-12 and 14 are pending in the above application.

The Office Action dated March 19, 2009, has been received and carefully reviewed. In that Office Action, claims 1-5, 7-12 and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Navarro in view of Stevens. Reconsideration and allowance of claims 1-5, 7-12 and 14 is respectfully requested in view of the following remarks.

Claim 5

The rejection of claim 5 includes the statement that Navarro and Stevens inherently permit users to limit the frequency at which communications are provided. In the previous reply, Applicant traversed this rejection by arguing that the examiner had not satisfied the requirements of MPEP 2112 and had not shown that the missing limitation was necessarily present in the references. Section 707.07(f) of the MPEP requires an examiner to answer an Applicant's arguments when a rejection is traversed. The rejection of claim 5 was repeated in the present Office Action, but no response to Applicant's argument was provided.

It is respectfully requested that the examiner comply with the requirements of MPEP 707.07(f) and MPEP 2112 and explain for the record why the missing limitation is "necessarily present" in Navarro and Stevens so that the record will be complete for a possible further appeal. Because this response should have been provided in the present final Office Action, it is respectfully requested that a response be provided in a

new final Office Action rather than an Advisory Action so that Applicant will not be prejudiced by this incomplete Office Action.

Claim 7

Claim 7 includes the limitations: “defining the location of a destination” and “communicating to the user directions from his present location to the destination.” Paragraph 0020 of Navarro, cited in the Office Action, indicates that a user may be provided with “recommended action for the user.” As argued in the previous Reply, this statement does not show or suggest providing the user with a destination and directions from a present location to the destination. The examiner repeated the rejection of claim 7 but did not respond to this argument. It is respectfully requested that the examiner comply with MPEP 707.07(f) and respond to Applicant’s arguments regarding claim 7 so that the basis for this rejection will be clearly reflected in the record.

Claim 1

The “Response to Arguments” section of the Office Action clarifies how the examiner is interpreting Stevens to support the rejection of claim 1. It is respectfully submitted that this interpretation of Stevens is inconsistent with the teachings of Stevens, and reconsideration and allowance of claim 1 is respectfully requested.

Claim 1 recites, inter alia, a method for a cell phone service provider to communicate to a cell phone user. The method includes determining that a user is located in a geographical area and that the user is a member of a class intended to receive an alert. Thus two determinations are required by this claim: whether the user

is in a geographic area and whether the user is a member of a class intended to receive an alert. The examiner appears to be combining these determinations by indicating that the "class intended to receive an alert" comprises all users in a geographic area. Thus, once it is determined that a user is in a given geographic area, it is known that the user is a member of the class comprising users in the geographic area. If this is not the interpretation being used by the examiner, it is respectfully requested that further clarification be provided.

It is respectfully submitted that Stevens makes at most one determination, namely, whether a user is in a geographic location. Once that determination is made, no further determination is made as to whether the user is a member of a class. Defining all users in a given area as members of a class does not show that a second determination is made. Requiring a "determination" as to whether a user is a member of a class necessarily implies that some users could not be members of that class - otherwise no determination would be needed. Stevens does not show determining whether the user is a member of a class intended to receive an alert as recited in claim 1, and claim 1 is submitted to be allowable over the art of record for at least this reason.

The claims not specifically addressed in this request for reconsideration are submitted to be allowable for at least the reasons provided in the previous Reply.

CONCLUSION

Each issue raised in the Office Action dated March 19, 2009, has been addressed, and it is believed that claims 1-5, 7-12 and 14 are in condition for allowance. Wherefore, reconsideration and allowance of these claims is earnestly solicited. If the

examiner believes that any additional changes would place the application in better condition for allowance, the examiner is invited to contact Scott Wakeman (Reg. No. 37,750) at the telephone number listed below.

Deposit Account Authorization

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 50-3828 and please credit any excess fees to such deposit account.

Respectfully submitted,

/Scott T Wakeman #37750/

Scott L. Lowe
Registration No. 41,458
Scott T. Wakeman
Registration No. 37,750
PO BOX 1364
Fairfax,VA 22038-1364
1.703.621.7140

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